



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशामन द्वारा प्रकाशित

खंड II]

शिमला, शनिवार, 20 फरवरी, 1954

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HIMACHAL PRADESH GOVERNMENT
Establishment Branch

NOTIFICATIONS

Simla-4, the 15th February, 1954

No. A-37-31/53.—Shri R. C. Gupta, a permanent Superintendent in the Himachal Pradesh Secretariat, in the grade of Rs. 300-20 400, is appointed as Budget Officer, Himachal Pradesh Secretariat, with effect from the 2nd November, 1953 (F. N). Grade and other emoluments and the post will be notified in due course.

Simla-4, the 15th February, 1954

No. A-37-18 54.—Shri Gian Chand Bali, Excise and Taxation Officer, Himachal Pradesh Government, is granted 12 (twelve) days' earned leave with effect from the 19th January 1954 (F.N.) to the 30th January, 1954 (A. N.) with permission to suffix Sunday, the 31st January, 1954.

MANGAT RAI, I.A.S.,
Chief Secretary.

Home, Gazette and Transport Department**NOTIFICATION**

Simla-4, the 12th February, 1954

No. HGT-4-41/49-III.—The Lieutenant Governor, Himachal Pradesh, is pleased to invest Shri Tulsi Ram, a Magistrate of the 1st Class in Chamba District, with powers under Section 30 of the Code of Criminal Procedure, 1898, to try as a Magistrate all offences not punishable with death with effect from the date of issue of this Notification.

By order,
SHIV SINGH, P.C.S.,
Assistant Secretary (Home).

Agriculture Department**NOTIFICATION**

Simla-4, the 13th February, 1954

No. Agr-5-256/53.—Shri A. R. Thapar, Assistant Horticulturist, Kulu, Punjab (1), assumed the charge of the office of Horticultural Officer, Himachal Pradesh, Simla, from the forenoon of December 28, 1954.

By order,
M. M. CRISHNA,
Secretary.

Deptt. of Agriculture & Animal Husbandry**NOTIFICATION**

Simla-4, the 15th February, 1954

No. Vety-104-130/53.—The Lieutenant Governor, Himachal Pradesh, is pleased to promote Shri G. C. Negi, Veterinary Assistant Surgeon, at present under training in New Zealand, against the post of Assistant Animal Husbandry Officer in the scale of Rs. 256-25-550/25-750 sanctioned *vide* Order No. Vety-67-12/48, dated the 5th June, 1953, with effect from the date he takes over the sanctioned post with headquarters at Simla. The post is at present temporary and upto 28-2-54.

By order,
M. M. CRISHNA,
Secretary.

Legislative Assembly**NOTIFICATION**

Simla-4, the 17th February, 1954

No. L.A-109-28/54.—The Lieutenant Governor, in exercise of the powers conferred by Section 9 of the Government of Part 'C' States

Act, 1951 (XLIX of 1951), has been pleased to direct that the Budget Session, 1954 of the Himachal Pradesh Legislative Assembly will commence on Monday, the 15th March, 1954, at 9-30 a.m. in the Council Chamber, Simla-4.

By order of the Lieut. Governor,
CHET RAM,
Assistant Secretary (Judicial).

स्वायत्त शासन**अधिसूचनाएं**

शिमला-4, 16 फरवरी, 1954

संख्या एल० आर-62-9/53.—हिमाचल प्रदेश में प्रयुक्त हुए पंजाब म्युनिसिपल ऐक्ट, 1911, की धारा 14 की उपधारा (e) का अनुपालन करते हुए उपराज्यपाल महोदय, हिमाचल प्रदेश, डाक्टर एम० एल० सूरी को सोलन म्युनिसिपैलिटी की सदस्यता (मैम्बरशिप) से हटाते हैं।

शिमला-4, 16 फरवरी, 1954

संख्या एल० आर-62-9/53.—हिमाचल प्रदेश शासन की अधिसूचना संख्या एल० आर-62-9/53, दिनांक 30 नवम्बर, 1953, के क्रम में और हिमाचल प्रदेश में प्रयुक्त हुए पंजाब म्युनिसिपल ऐक्ट, 1911, की धारा 240 (1) (बी) के प्रयोग में हिमाचल प्रदेश के उपराज्यपाल निम्नलिखित नियमों की व्यवस्था इस अधिसूचना के प्रकाशन दिनांक से करते हैं :—

नियमों का प्रारूप

- (1) सोलन की म्युनिसिपैलिटी के लिये सदस्य-निर्वाचन हेतु सोलन म्युनिसिपैलिटी इससे संलग्न अनुसूची में दिखाए गये पांच वार्डों में बांटी जायेगी।
- (2) प्रत्येक वार्ड से उस वार्ड के रजिस्टर्ड मतदाताओं द्वारा एक प्रतिनिधि निर्वाचित किया जायेगा।
- (3) वार्ड नम्बर 3 से अनुसूचित जाति (Scheduled caste) का भी एक प्रतिनिधि निर्वाचित किया जायेगा।

अनुसूची**वार्ड का वर्णन****वार्ड सं० 1**

प्रेमवीर काटेज से गवर्नमेंट रैस्ट हाऊस तक कार्टरोड पर उस की निचली तरफ के और उसकी बायीं तरफ के सारे मकान और उस के बाद टेलीफोन ऐक्सचेंज की बिल्डिंग से मामूर लौज तक कार्टरोड की दायीं तरफ के सारे मकान।

वार्ड सं० 2

सुखनिवास से बुडलैण्डस के पश्चिम में कार्टरोड की दायीं तरफ के सब मकान और उस के बाद निगम हाऊस तक सरक्यूलर रोड के साथ साथ के मकान और फिर फौकटरी रोड पर लक्कर बाजार से हो कर नाले (वैली) के ऊपर के मकान।

वार्ड सं० 3 (द्वि-सदस्य निर्वाचन क्षेत्र वार्ड)

कार्टरोड पर बगरियान हाऊस से रमेश दोब लाल की दुकान तक की सड़क की दायीं तरफ से सब मकान और फिर राधे लाल के मकान

वार्ड सं० 3 क्रमशः
तक और सरवथुलर रोड के साथ साथ बगरियान हाउस तक के
मकानात ।

वार्ड सं० 4
शिली रोड और राजा साहिब के पैलेस के चारों तरफ कचहरी
रोड और अप्पर बाजार की निचली तरफ से वैद्य माधोराम की
दुकान तक तथा उससे आगे कार्टरोड के उसी तरफ से लक्ष्मी
स्टोर के समीप के पेशाब खाने तक का मार्ग क्षेत्र । उस के बाद
बरफकुआ के मकानों और कमाव गली परिया से राधो फनोर मिल्ल
तक के क्षेत्र सहित गंज से लोपर बाजार तक (दोनों तरफ का)
मार्ग क्षेत्र ।

वार्ड सं० 5
चम्भा धार क्षेत्र, सोलन बरूरी और सलोमरा का समस्त क्षेत्र ।

आज्ञा मे,
प्रेमराज महाजन,
सहायक सचिव ।

स्वास्थ्य विभाग

अधिमूचना

शिमला-4, 29 जनवरी, 1954

सं० एम-65-762 53.— डा० डी० एम० चौधरी को हिमाचल
प्रदेश हस्पताल, स्मोडन, में दिनांक 14-1-54 पूर्वाह्न से डेप्युल
सर्जन (राजपत्रित) के पद पर 250-20-330/20-450/20-550
के वेतन-माप में नियुक्त किया गया है ।

आज्ञा मे,
चेत राम,
प्रति सचिव (स्वास्थ्य) ।

Public Works Department

NOTIFICATION

Simla-4, the 28th January, 1954

No. PW-43-48/51-2681-724.—The following
Notifications published in the Gazette of India
Part III-3, may please be treated as cancelled:—

1. Notification No. PW-43-48/51-5846,
dated the 8th May, 1953, published
in the Gazette of India, Part III,
Section (iii), dated the 16th May,
1953.

2. Notification No. PW-42-48/51-11040,
dated the 25th August, 1953, publi-
shed in the Gazette of India, Part
III-3, dated the 5th September, 1953.

By order,
G. R. NANGEA,
Secretary.

Revenue Department

Simla-4, the 13th February, 1954

No. R-107-358 53.—In exercise of the
powers conferred under Section 20 (3) of the
Punjab Court of Wards Act, 1903 (II of 1903),
as applied to Himachal Pradesh, the Financial
Commissioner, Himachal Pradesh, is pleased
to invest the Assistant Manager, Court of Ward,
Bushahr, with the powers to file conduct, and
defend suit on behalf of the Court of Wards
in respect of the estate of Raj Kumar Rajender
Singh, at present under Court of Wards.

Simla-4, the 16th February, 1954

No. R-107-38 54.—In continuation of this
Government Notification No. R-107-38 54,
dated the 29th January, 1954, read with Noti-
fication No. A, 107-47 52, dated the 18th Dec-
ember, 1953, the Financial Commissioner, Hima-
chla Pradesh, is pleased to direct that Tuesday,
the 12th October, 1954, shall be observed as
holiday by all Revenue Officers and Revenue
Courts in this State on account of Maharishi
Balmiki's Birthday instead of 14th October,
1954, as notified in Himachal Pradesh Govern-
ment Notification No. A-107-47/52.

By order.
BASANT RAI,
Assistant Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा

अधिमूचनाएं, इत्यादि ।

Office of Deputy Commissioner, Chamba
District (Himachal Pradesh)

NOTIFICATION

Chamba, 28th January, 1954

No. A-313/Cus.—I, Thakur Sen Negi, Deputy
Custodian, Chamba, in exercise of the powers
conferred on me by Notification No. G-50-10/48-
II, dated the 7th October, 1950, read with
clause (q) of Section 10 of the Administra-
tion of the Evacuee Property Act, XXXI, hereby

authorise Shri Tulsi Ram, Magistrate Ist Class,
Chamba, to exercise the powers conferred
under Section 7, 9, 10 (2) Clauses (a), (c), (d),
(f) and (i) and 12 of the Administration of
the Evacuee Property Act, XXXI of 1950,
with immediate effect.

THAKUR SEN NEGI,
Deputy Custodian,
Chamba.

भाग 3—अधिनियम, विधेयक, और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के उपराज्यपाल, जुडिशल कमिशनरज कोर्ट, फाइनैन्शल कमिशनर, कमिशनर आफ इनकम टैक्स द्वारा अधिसूचित आदेश इत्यादि ।

शून्य

भाग 4—स्थानीय स्वायत्त शासन : म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

शून्य

भाग 6—भारतीय राजपत्र इत्यादि में पुनः प्रकाशन

Law Department

MEMORANDUM

Simla-4, the 15th February, 1954

No. 431 LR/54.—A Copy of the Resolution together with an arbitration award submitted by the Arbitrator, Shri H.K. Chaudhuri, Chairman of the Industrial Tribunal Dispute between the Management of Imperial Tobacco Co. of India Ltd., Patna, and their workmen, is re-produced below for general information.

CHET RAM,

Assistant Secretary (Judicial.)

RESOLUTION

The 16th November, 1953

No. III/DI-17013/53-15796.—Whereas Shri H. K. Chaudhuri, Chairman of the Industrial Tribunal, Bihar, has submitted to the Government his arbitration award in respect of the industrial dispute between the management of the Imperial Tobacco Company of India Limited, Patna, and their workmen, referred to him under Labour Department letter No. 11765, dated the 31st August, 1953, for arbitration and whereas the State Government has been pleased to decide that the arbitration should be published in the Bihar Gazette.

ORDER.—Ordered that a copy of the resolution with a copy of the award be forwarded to the Superintendent, Government Printing, Gulzarbagh, for publishing the resolution and the award in the Bihar Gazette and copies be forwarded to the parties to the said dispute.

By order of the Governor of Bihar,
B. P. SINHA, Under-Secretary,
Before SHRI H.K. CHAUDHURI, M.A., B.L.,
Arbitrator.

ARBITRATION CASE No. 1 of 1953
Management of Imperial Tobacco Company
of India, Ltd., Patna Branch

versus

Their workmen, represented by Imperial Tobacco Company Employees' Union, Patna Branch.

For the management—

Dr A. M. SHARMA, Assistant to Labour Liaison Manager, Imperial Tobacco Company of India, Ltd.

Mr. W. M. HUTCHENCE, Depot Manager.

Mr. T. R. SETHI, Circle Salesman.

For the Union—

Mr. RANEN ROY, President.

Mr. A. PRASAD, General Secretary.

Mr. P. P. DUBEY, Assistant Secretary.

AWARD

I am making this award by virtue of my appointment as arbitrator in a memorandum of settlement arrived at on the 27th July, 1953, in the course of a conciliation proceeding in connection with a dispute between the management of the Imperial Tobacco Company of India Ltd., and the Imperial Tobacco Company Employees' Union at Patna. The point specifically referred to for determination is whether the workmen of the aforesaid company, who were on strike from the afternoon of the 13th July, 1953, to the 27th July, 1953, are entitled to receive their wages for the strike period.

2. On receipt of the reference, notice was issued to the parties directing them to submit their statements. The union filed its statement on the 24th September, 1953. The management filed its statement on the 30th September, 1953 on which date the hearing was taken up. The parties filed their respective documents which have been admitted into evidence. Neither side adduced any oral evidence.

After the conclusion of arguments, Dr. Sharma appearing for the management prayed for one day's time to produce some papers. The papers were filed on 3rd October, 1953. On that day, Mr. Ranen Roy, appearing on behalf of the workmen, filed a petition requesting the arbitrator to examine Mr. Chandrabhushan Prasad, the Conciliation Officer, as a Court witness. The evidence of Mr. Chandrabhushan Prasad was recorded on the 7th October 1953. He was cross-examined by Dr. Sharma. There was no cross-examination on behalf of the union. After the evidence of the Conciliation Officer was recorded the parties made further submissions on 8th October, 1953.

3. The facts giving rise to the present proceeding are as follows:

One Mr. Akhileshwar Prasad, an employee of the company at Patna, is the General Secretary of the Imperial Tobacco Company Employees' Union. He also happens to be the General Secretary of the All-India Tobacco Employees' Federation. On 27th June, 1953, Mr. Akhileshwar Prasad applied to the Depot Manager at Patna asking for four days' casual leave from 1st July, 1953 to 4th July, 1953 with permission to leave office on that day at 2 P.M. The ground urged was that the employee had received a telephonic message from Calcutta that his eldest brother was seriously ill there and that he had been asked to proceed immediately to Calcutta along with his brother's family. Mr. Akhileshwar Prasad was granted 4½ days' casual leave as a special case with pay and dearness allowance from 29th June, 1953 (1 P.M.). He was directed to report for duty on 6th July, 1953 at 9-30 A.M. 5th July was a Sunday. Mr. Prasad did not join his duty on the expiry of his leave. On 9th July 1953, the management received an application from Mr. Prasad for extension of leave up to and including the 9th July on the ground that his presence was still necessary in Calcutta on account of the continued illness of his brother. This application for extension, although dated the 6th July, 1953, was actually despatched from Calcutta on the 8th July. The extension applied for was granted as a very special case. As only half a day's casual leave was due to Mr. Prasad at that time the extra leave granted was without pay and without dearness allowance. Later on, however, the management came to know that Mr. Prasad had visited various places in South India between 2nd July and 5th July, 1953, and addressed meetings of workmen of the Indian Leaf Tobacco Development Company, Ltd., at those places and that thereafter he had left for Hyderabad on 6th July reaching Calcutta on 9th July. There being ample materials to prove that Mr. Prasad had obtained leave on a false pretext, a charge-sheet was given to him by the management on the 13th July, asking him to show cause why he should not be dismissed or otherwise punished for misconduct and why his absence from duty

from the 6th to the 9th July, 1953, should not be treated as unauthorised absence involving loss of wages and dearness allowance for the whole period of leave granted to him and a break in his service with the disqualifications consequent upon such break. Mr. Prasad was asked to submit his explanation by noon on the same day. He was also suspended with effect from the same date pending the completion of the enquiry into his misconduct charged against him. Immediately after this order was passed, the entire office staff left their office and went on strike. Mr. C. B. Prasad, the Assistant Commissioner of Labour, Patna, took up the dispute and held a joint meeting at his office the same day. The conciliation proceedings continued till the 27th July, 1953, when a settlement was arrived at. According to the terms of settlement Mr. Akhileshwar Prasad was to be treated as on suspension during the period from 21st July to 25th July, 1953. As to the period from 13th to 20th July, 1953, it was treated as absence from duty with permission without pay and dearness allowance. All proceedings against Mr. Prasad were dropped. The strike was also called off and the management agreed that no disciplinary action would be taken against the strikers. The parties were, however, unable to come to a settlement on the question of strike pay. They agreed to refer the question of payment of wages for the strike period to my arbitration.

4. The law with regard to strike pay is quite clear. Where the strike is illegal, the workmen are not entitled to pay for the period of strike. As has been held in 1952 L. A. C. 370, the position will be anomalous if, in criminal law, a workman is punished for going on an illegal strike, he would in civil law be required to be compensated by the employer for his identical conduct. Even if the strike is not illegal, the workmen will be disentitled to get the pay for the strike period if the strike is unjustified.

5. There is no doubt that the strike in the present case was not illegal as it did not fall within any of the provisions of Sections 22, 23 and 24 of the Industrial Disputes Act, 1947. The only point to be determined is whether the strike was justified or not. While recognising that the weapon of strike available to workmen is a valuable weapon for the purpose of ventilating their demands, I am of the view that in the present case the strike was perverse and unsustainable. The whole contention of the workmen is that the management in suspending Mr. Prasad, who is the general secretary of the local union and also the All-India Tobacco Employees' Federation, was guilty of unfair labour practice. They have gone to the length of asserting that there was a planned conspiracy between the management and the Labour Department to dismiss Mr. Prasad with a view to crush the trade union activities of

the workmen. I am not at all impressed with this contention. The documents produced by the management clearly show that Mr. Prasad had obtained leave and an extension thereof on a false pretext. His tour programme in South India had been fixed long before he applied for leave on the ground of his brother's illness. In obtaining leave on a false representation, he was clearly guilty of misconduct and the management was perfectly entitled to take disciplinary action against him. The fact of Mr. Prasad being a trade unionist cannot afford him immunity from disciplinary action for misconduct. The workmen went on strike without a waiting for the results of the enquiry which had just started. The order of suspension pending enquiry was not a final order. It was submitted in the course of argument that the workmen were under the apprehension that an order of dismissal would follow the suspension as a matter of course. This was a most unreasonable apprehension for there was no indication at any time on the 13th that the management had made up its mind with regard to Mr. Prasad and was going to dismiss him. At any rate, if the workers had a grievance in regard to the steps taken by the management they could have approached the Conciliation Officer who was close at hand and whose services were readily available. It would be a bad day for administration if workmen take it into their heads to go on strike as soon as any of them is proceeded against in the normal course on a charge of misconduct. It was submitted that the management had condoned the conduct of another workman on a previous occasion who was guilty of a similar offence. It appears that one Ram Singh had obtained leave on the representation that he had to go to Hardwar. Later on it was found that instead of proceeding to Hardwar he had gone to Raxaul. I do not think that the case of Ram Singh has any bearing on the point at issue before us. This man held a petty job and one does not expect a high standard of conduct from a man of his rank. The management, however, had every right to expect a very much higher standard of conduct from an educated man of the type of Mr. Prasad. In any event there was no reason why the workmen should have got excited and taken a hasty step even before any substantive punishment was awarded to Mr. Prasad. I hold, therefore, that the strike was perverse and unsustainable.

6. This finding would have been sufficient to dispose of the workmen's claim for wages for the strike period. The facts deposed to by the Conciliation Officer, however, show that

the strike was prolonged to some extent at least owing to the dilatoriness of the management. On 13th July, 1953, there was a joint meeting of the representatives of the management and the union in the office of the Conciliation Officer. The Conciliation officer did his best to induce the workers to resume work immediately. On the 14th July, 1953 the workers had in fact gone inside the office to resume work but they left their seats again because no assurance was forthcoming that the order of suspension against Mr. Prasad would be lifted. On the 17th July, 1953, Dr. Sharma came down to Patna in connection with the dispute. It appears that his instruction mainly was to finalise the proceedings against Mr. Prasad. The Conciliation Officer, however, persisted in his efforts and an agreement was in sight on some points. Nothing, however, came out of these discussions because the workmen insisted upon payment of their wages for the strike period. On the 18th July, 1953 the Conciliation Officer offered certain terms. He suggested that the parties should come to an agreement on the basis that Mr. A. Prasad was to be punished by suspension for a portion of the period, that his entire leave was to be treated as without pay and that over and above this he was to get a warning. He also suggested that the question of strike pay should be referred to arbitration. On the 20th July, 1953, the union unequivocally accepted these terms but the management turned down the proposals. This delayed the settlement. Ultimately, on the 27th, the management accepted most of these terms and a memorandum of settlement was signed by the parties. The period of the strike could have been shortened by a week at least if the management had accepted the proposals of the Conciliation Officer on the 20th July, 1953. The management's representatives were not prepared to admit that they were responsible in any way for prolonging the strike. Dr. Sharma, however, informed me that the management was prepared to take a generous view of the situation and pay the workers their wages and dearness allowance for a period of seven days. I consider this to be a fair gesture. I, therefore, direct that the management shall pay the strikers their full wages and dearness allowance for a period of seven days. The workmen's claim for wages and dearness allowance for the remaining period of seven days and a half is rejected.

H. K. CHAUDHURI,
Arbitrator.

PATNA:
10th October, 1953.

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